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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the combined third to fifth periodic reports of Latvia

Addendum

Information received from Latvia on follow-up to the concluding observations* **

[Date received: 10 February 2015]

Follow-up information submitted by Latvia in response to the recommendations contained in paragraphs 9, 19 and 21 of the concluding observations of the Committee against Torture

1. On 15 November 2013, the Committee against Torture adopted concluding observations on the combined third to fifth periodic reports of Latvia (CAT/C/LVA/CO/3-5 and Corr.1).

2. The present document contains follow-up information in response to the recommendations by the Committee, as expressed in paragraphs 9, 19 and 21 of the above-mentioned Concluding observations.

A. Implementation of the recommendations contained in paragraph 9 of the concluding observations

1. Legal safeguards from the very outset of deprivation of liberty

3. The applicable procedures and safeguards for the arrested and detained persons[1] are set out in the *Law On the Procedures for Holding under Arrest*.[2] This Law states that once

* The present document is being issued without formal editing.

** The annexes may be consulted in the files of the Secretariat.

1 In the present document the term used to describe the persons who are deprived of liberty depends on the procedural status of the person concerned, namely, detained person, arrested or apprehended person, convicted person, prison inmate or prisoner, prisoner serving life-sentence.

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the person is placed in an investigation prison, the administration familiarises the person without delay with his or her rights and duties in the language understood by him or her, inviting an interpreter, if necessary. For this purpose each person immediately after commitment to the place of detention receives in printed form and in the language the person understands the description of the rights of a detainee as listed in Article 60[2] of the *Criminal Procedure Law*. The fact that the person has been informed about his or her rights is noted in the detention protocol.

4. Once placed in the investigation prison, the arrested person is registered and searched by a prison employee of the same gender. The results of the search are recorded in a protocol; furthermore, a personal file is created that contains full details of the person placed in investigation prison. The detainee, as well as the suspect or the accused with respect to whom a security measure related to deprivation of liberty has been applied, has the right to require that his or her relative, educational institution or employer are notified about the detention.

2. Access to a lawyer and legal assistance

5. The legal framework for the exercise of the right to access to a lawyer (legal assistance) consists of the *Advocacy Law* and *Criminal Procedure Law*. All detained, arrested, imprisoned and convicted persons must be provided with the possibility, time and resources to meet privately with, or contact a lawyer[3] in order to receive legal assistance. The right to legal assistance must be ensured without delay, interference or censorship, respecting complete confidentiality. A person who has the right to defence, has the right to invite a defence counsel or to use the legal assistance ensured by the State, and to meet and to receive legal assistance from the counsel without limitation of time.

6. In accordance to the provisions of the *Criminal Procedure Law*,[4] the prosecuting authority is obliged to provide the person who takes part in criminal proceedings with the necessary information, and to provide this person with an opportunity to use means of communication for the retention of the defence counsel. In case the participation of a defence counsel is mandatory or the person requests the participation of the defence counsel, but has not yet entered into an agreement with one, the prosecuting authority notifies the elder of the sworn advocates regarding the necessity to ensure the participation of a defence counsel in criminal proceedings.[5] The prosecution authority can invite an attorney to ensure defence, taking into account the schedule of the attorneys on duty compiled by the elder of the sworn attorneys of the territory of the relevant court. The schedule of the attorneys on duty within the jurisdiction of the relevant court is available to the prosecuting authority, and is published on the website of the Latvian Council of Sworn Attorneys – www.advokatura.lv.

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2 Adopted on 20 June 2006.

3 The term "lawyer" (defence counsel, attorney) is used to indicate a person (advocate) who may represent person's interests in respective legal relationships or legal proceeding. The *Advocacy Law* defines the advocate (sworn advocate) as an independent and professional lawyer who provides legal assistance in defending and representing the lawful interests of persons in court proceedings and pre-trial investigations, providing legal consultations, preparing legal documents and performing other legal activities. Persons may be admitted as sworn advocates if they fulfil certain conditions and have passed the advocate examination. In accordance with the *State-Ensured Legal Aid Law* a contract regarding the provision of legal aid may be entered into with a person who could be an advocate in the Republic of Latvia or who is a sworn notary or a sworn bailiff, with a state-recognised higher education institution, with a natural person or with an association or foundation.

4 Article 602 of the Criminal Procedure Law.

5 Article 81 of the Criminal Procedure Law.

7. The *Advocacy Law*[6] sets out an obligation of the sworn attorneys to provide legal assistance in criminal cases, upon agreement with a person or representative thereof, or upon being commissioned by the Latvian Council of Sworn Attorneys or elder of the sworn attorneys of the relevant court territory, or upon being commissioned by the prosecuting authority for providing legal assistance and representation during specific procedural actions set out in the *Criminal Procedure Law*. If a sworn attorney cannot be present at these procedural actions at the time indicated, he or she must ensure that there is another sworn advocate to ensure the legal assistance, and must inform the prosecuting authority accordingly.

8. A foreign that is subject to the voluntary return procedure or removal, has the right to legal aid ensured by the State, the right to inform the relative or other person of their chose, on the place of location, as well as the right to apply for aid provided by international organisations, associations or foundations. The foreign has the right to receive the State ensured legal aid, if he or she does not have sufficient resources, is residing in Latvia, and execution of the voluntary return decision or removal order issued is suspended, as well as in cases where he or she has been detained and is residing in specially equipped premises or an accommodation centre. A foreign must submit to the institution, which took the decision on the contested voluntary return decision or removal order, a filled-in application regarding the request of State ensured legal aid and his or her income. The institution, not later than the following working day, forwards this application to the Legal Aid Administration, which is the institution responsible for the provision of State ensured legal aid. The submission of an application suspends the running of the appeal period for the contested decision until the day when the foreigner has been granted the first legal consultation or a decision has been taken on refusal to grant State ensured legal aid. In case a foreign has been detained at the border control point, the State Border authority invites a provider of legal aid from the list prepared by the Legal Aid Administration. A foreigner, in relation to whom a removal order has been taken or a voluntary return decision has been issued, has the right to apply for aid provided by international organisations, associations or foundations, to voluntarily return to the country of residence (voluntary return programme). If the foreigner has applied for the voluntary return programme and the relevant organization has informed the institution thereof, the public authority is entitled to revoke the removal order, except the foreigner poses a threat to the State security, public order or safety, or has previously used the voluntary return programme.

3. Notification about the detention

9. The detained person, as well as the suspected or accused person to whom a security measure related to deprivation of liberty has been applied, has the right to require that his or her detention or arrest is notified to his or her relative, educational institution or employer, not later than within 24 hours[7]. In case a juvenile has been deprived of his or her liberty, the prosecuting authority immediately informs his or her parents or other adult close relative or guardian. A foreigner has the right to request that the diplomatic or consular representation of his or her country is notified of his or her detention.

4. Medical care

10. The detainee has the right to medical care from the very outset of deprivation of liberty. Health examination and decontamination of the detained person are performed promptly after arrival at the place of detention, establishing the schedule of the treatment,

[6] Articles 52 and 52[1] of the *Advocacy Law*.
[7] Article 247 of the *Criminal Procedure Law*.

and in case of necessity, immediate treatment is commenced. In police short-term detention centre the detained person receives emergency medical care, and medical care of urgent need, as well as necessary medicine paid for by the state budget. In case of detention of the asylum seekers, after arrival at the Accommodation centre, the detained person has the right to receive primary and secondary health care services. The State Border Guard has not received complaints about the lack of health care in the Accommodation centre.

11. In case of complaint, the health of the detained person is examined by the medical personnel of the respective place of detention. The emergency medical care may be summoned, in case the police detention centre does not have appropriate medical personnel. In addition, the detained person is entitled to invite the medical specialist of his or her own choice for medical consultations provided the person convers the related expenses. All medical consultations and recommendations, as well as the refusal by the detained person to be examined, are included in the Medical journal. In case the medical personnel determine that the detained person may not be placed in the detention, the detainee is transferred to the place of medical treatment.

12. Emergency medical care for all detained persons, including emergency dental care, is provided free of charge twenty-four hours a day. Regulation No. 25 "*On the Health Care for Detained and Convicted Persons placed in the Places of Detention*" adopted in 2014[8] has extended the range of the health care services available to the prisoners. The prisoner has the right to receive the following health care services free of charge:

- Primary health care, provided by the medical personnel of the place of detention, except the planned dentistry service;
- Emergency dentistry care;
- Secondary health care, provided by the medical personnel of the place of detention, and, in case of the acute illness or chronic disease of acute condition, outside the place of detention;
- Medication prescribed by the medical personnel of the place of detention;
- The state financed health care services outside the place of detention, according to the medical indications, prescribed by law.

13. At his or her own expense the prisoner can receive the health care services, medical consultation or medical examination outside the place of detention, as well as to purchase the medicine or medical equipment. According to the existing legal framework, the prisoner submits written application requesting such health care services, and, having received recommendation by the doctor of the place of detention, the head of the respective place of detention decides on granting the request. In 2013 there were 3634 cases when the out-patient health care services (including dentistry services and laboratory investigation) were provided outside the place of detention, and 242 cases of in-patient health care. Medical treatment (consultations, investigations and courses of treatment) outside the place of detention is available in accordance to the general quotas, and waiting lists are no longer than for other patients. The inmates have the right to receive the minimum necessary medication, state sponsored medication, as well as to acquire the medication for personal means. In 2014, the use of the public sector medical services outside the places of detention has significantly improved the medical care services available to the detainees. In addition, the supply of the state financed medicine (the assortment) has expanded.

[8] Regulation No. 25 "*On the Health Care for Detained and Convicted Persons placed in the Place of Detention*" of 14 January 2014.

14. The prisoners have the possibility to receive the consultations by the psychiatrist. Particular attention is paid to the inmates with suicidal tendencies; they receive the medical treatment by the psychologist and the psychiatrist. In compliance with the principle of informed consent, forced treatment of a detainee can be applied only when the threat is imminent.

15. In case of a permanent damage to the health, and upon the application of the prisoner or his or her representative, the doctor of the place of detention evaluates the health condition of the respective prisoner and prepares documentation for the submission to the commission that decides on granting that prisoner a formal status of disabled person, and assigning a disability group.

16. The issue of the availability of the medical care services in the places of detention falls within the competence of the Prisons Administration (the public authority subordinated to the Ministry of Justice). Complaints about the provision of the health care services within the places of detention are examined by the Medical unit of the Prisons Administration, which reviews medical documentation related to the complaint, as well as receives opinions of the medical experts. In 2014, the Medical unit considered 709 applications. Four times a year the Medical unit of the Prisons Administration holds meetings for the managers of the medical units of the places of detention, in order to analyse the reasons of the complaints and issues raised therein.

17. In order to address the issue of access to paid dentistry services in the places of deprivation of liberty, the Prisons Administration elaborated, and on 5 December 2014, the Ministry of Justice presented the proposal for amendments to the Regulation No. 25 (see paragraph 14 above). The amendments proposed envisage the possibility to establish in the place of detention a dentistry commercial enterprise, which would provide paid dentistry service for the detainees.

18. With regard to the number and sufficiency of the medical personnel in the places of detention, it must be noted that the Prisons Administration has evaluated the framework of organization of the medical staff in the Prison Hospital. As a result, the structure of the medical staff in the Prison Hospital, and medical units at the places of detention has been updated. As of 1 January 2014, the number of medical staff in the Prison Hospital has been increased to 43,5 staff places (instead of existing 33,5 places), among them, 2 staff places for doctors, 5,5 – for nurses, 2 – for assistants to the nurse, and 1 – for laboratory assistant.

19. In order to further improve the health care system in prisons, in November 2014 new department was opened in the Prison Hospital, where medical treatment can be received by prisoners with somatic diseases and patients after operations. The bed availability for in-patient treatment in the Prison Hospital increased from 100 to 120.

20. The issue of the quality of health care services in the places of detention falls within the competence of Health Inspectorate (the authority subordinated to the Ministry of Health), which has the competence to institute administrative proceedings upon receipt of an application from the prisoner, to verify the facts described in the application, and to prepare a conclusion, which is subject to the appeal within administrative court. When the application refers to complicate and serious disease, or involves the availability of different medical specialists, in order to expedite the consideration of applications the officials of the Inspectorate visit the place of detention. The medical treatment is inspected in accordance with the provisions of the *Medical Treatment Law*, the *Law On the Rights of the Patients*, Regulation of 14 January 2014 No. 25 "*On the Health Care for Detained and Convicted Persons placed in the Places of Detention*", *Regulation of 17 December 20 No. 1529 13* "*On the Organization and Financing of Health Care*", and other legal norms applicable to the substance of the complaint.

21. With regard to the complaints about the medical care services, in 2013 the Ministry of Health received 248 applications from prisoners, none of which were recognized as well-founded. In 2014, the Ministry of Health received 191 applications, 4 of which (for the primary health care, neurology and dentistry services) have been recognised as well-founded. In two cases the health care personnel has been held administrative liable. In one of the cases administrative penalty was not applied, because of the lapse of time for administrative liability. In another case administrative penalty — a warning — was applied.

22. The CPT during their 2013 visit found improvements in certain areas, including ensuring the confidentiality during doctor-inmate consultations.[9] Medical confidentiality during doctor-inmate consultations is respected; such consultations usually take place in the absence of custodial officers, while the inmates are taken to the premises of the medical personnel for provision of the health care services. Even if, in order to prevent the escape, the inmate concerned remains in constant visual control of the prison administration official, the guarding officer is not present at the consultation with the medical personnel.

23. In 2014 the State Police College provided continuing education and offered three informal education courses "The Basic Knowledge of First Aid" for 33 officers of the State Police. Data about formal education courses for the employees of the State Police in 2014 is provided below:

Programme	*The subject*	*Number of absolvents*	*Number of students continuing education programme*
Professional continuing education "Basics of the work of the Police"	First Aid	107	169
Vocational education "Work of the Police"	First Aid	112 full-time students; 17 external students	239 full-time students; 49 external students
First level professional higher education "Work of the Police"	First Emergency Aid in the Work of the Police	-	25 full-time students; 100 external students

5. Implementation of the Regulation No. 1493

24. When the person meets the requirements prescribed by the law, that is, has obtained the status of a low-income or needy person or finds himself suddenly in a situation and material condition which prevents him or her from ensuring the protection of the rights (due to a natural disaster or *force majeure* or other circumstances beyond his or her control), or is on full support of the state or local government, the person is entitled to receive the state ensured legal aid. All requests for State-ensured legal aid are considered by the Legal Aid Administration.

25. Person requesting the legal aid has at his or her disposal administrative remedies to challenge the decision taken by the Legal Aid Administration. The decision of the Legal Aid Administration to reject the request for provision of the legal aid can be contested before the Ministry of Justice, whose decision in turn can be appealed against before administrative courts. In 2014, the Legal Aid Administration has received 26 applications challenging its decisions, and in 24 cases the Ministry of Justice left the decision of the

[9] CPT Report Latvia Visit 12-09-2013-17-09-2013.

administration unchanged. In 6 cases persons have applied to the administrative court. The first instance court decisions to reject the application have been appealed before the cassation court in four cases

26. With respect to implementation of regulation No. 1493 "*Regulations Regarding the Amount of State-ensured Legal Aid*", it should be recalled that as of 1 January 2014 a transition period of two years has been introduced, when the level of reimbursements gradually increase, to reach the amounts provided by the Regulation on 1 January 2016. Despite the increase in the amount of the state ensured legal aid, the number of the providers of state ensured legal aid has not increased. In 2013 there were 329 sworn advocates and assistants to sworn advocates who provided state ensured legal services in criminal matters, and 332 in 2014. The average number of the legal aid providers for out-of-court settlements, civil law cases, cross-border cases and administrative law cases is 120.

27. Upon the submission from the court or the prosecuting authority, as well as on the basis of the complaints of persons, or upon its own initiative the Latvian Council of Sworn Attorneys may initiate disciplinary proceedings for violations of the instructions regulating the work of sworn attorneys and the norms of the professional ethics of sworn attorneys.[10] However, it should be emphasised that the Latvian Council of Sworn Attorneys so far has not received any complaints from the law enforcement agencies about insufficient number of lawyers within jurisdiction of the relevant court territory. The Legal Aid Administration has likewise not received complaints form either private individuals or public authorities. Therefore, the number of sworn advocates should be deemed as appropriate, and the amount of the remuneration for lawyers providing state-ensured legal aid has not been the reason for attorneys to refuse to provide the state-ensured legal aid to individuals.

28. The number of complaints about the infringement of their right to defence and the right to inform the relative about the arrest of the person received by the Ombudsman also has been small. The complainants mostly allege the denial of the right to contact with the lawyer chosen by the person, without providing the reasons for the denial. When visiting the short-term detention facilities, the Ombudsman has not received complaints about inadequate number of lawyers, or impossibility to contact the lawyer in case of necessity.

29. Data concerning the State-ensured legal aid, the funds paid for the legal aid and number of providers of the legal aid in 2014 is annexed.

B. Implementation on the recommendations contained in paragraph 19 of the concluding observations

1. Restoration and renovation work within the places of detention

30. On 12 February 2013, the Government adopted the policy planning document – Concept on the Development of the Infrastructure for the Places of Detention. The requirements for the infrastructure of the places of detention were defined taking into account the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Standard Minimum Rules for the Treatment of Prisoners and provisions of the Recommendation Rec(2006)2 of the Committee of Ministers of the Council of Europe to Member States on the European Prison Rules. The Concept establishes the provisions for the new infrastructure, and specifies the minimum requirements for the prison building, in particular:

[10] Article 71 of the *Advocacy Law*.

- The space of the cell for 2 prisoners should be no less than 10 square metres, including 4 square metres of the living space for each person, and 2 square metres of the bathing space with the shower;
- The single penal isolator should be no less than 6 square metres;
- The walking places should be no less than 20 square metres with partial roofing;
- The place of detention should contain the place for the employment of the detainees, as well as the territories for resocialisation (places for education, for the events for correction of the social behaviour, the reading room, chapel, sport hall and play court, as well as apartments for the long-time visits).

31. The Concept on the Development of the Infrastructure for the Places of Detention envisages that in order to create necessary premises and conditions to implement the resocialisation programme for the inmates, 5 new places of detention would be constructed instead of existing 12 places of detention. The construction competed until January 2015 was accomplished according to schedule.

32. Following the schedule set out in the Concept on the Development of the Infrastructure for the Places of Detention, the Prisons Administration is currently implementing the Norwegian Financial Mechanisms' project "Establishment of a New Section at Olaine prison, including Construction and Personnel Training", launched on 18 September 2013. The project will end on the 30 April 2016. In the framework of the project, it is planned to renovate the building of the Olaine prison and to build a new housing in the Centre for addicts. The total funding for the project is EUR 8,716,961, 85% of which is financed by Norway, the other part – by Latvia.

33. Between 2009 and 2012 the work on the improvement of the infrastructure and modernisation of the conditions in the places of detention was completed in six prisons (Brasa prison, Riga Central Prison, Valmiera prison, Daugavgrīva prison, Jelgava prison, and Cēsis Correctional Facility for Juveniles), including the prison where the prisoners serving life sentence are placed, and the correctional facility for juveniles. These improvements took place in the framework of European Development Fund project "Improvement of Vocational Education Infrastructure and Modernization of Equipment in Places of Imprisonment" with budgetary allocation of EUR 3,294,417.79, and included the renovation of the study rooms and auxiliary rooms.

34. In order to improve the living conditions, including in the places of detention for the prisoners serving life sentence, in 2014 several places of deprivation of liberty were renovated or reconstructed, namely, Brasa prison, Daugavgrīva prison, Iļģuciems prison, Liepaja prison, Jelgava prison, Jēkabpils prison, Olaine prison, Valmiera prison, Vecumnieki prison, Rīga Central Prison, as well as in Cēsis Correctional Facility for Juveniles. Repairs have also been carried out in Jelgava and Daugavgrīva prisons:

- In Jelgava prison, 7 cells were repaired, including the partition of the toilet. The water supply station of Jelgava prison has also been renovated, as well as electrical installation, and new day light equipment and electrical power points have been installed;
- In Daugavgrīva prison, to separate the toilet facilities in order to secure the privacy of the prisoners, the water closet (sanitary) engineering has been reconstructed within the cells of two parts of the prison. With respect to the educational facilities, the heating system was renovated in 5 places where the tailoring courses for the prisoners serving life sentence are held. In order to improve the heating, the heating system in the dining-room for the prisoners serving life sentence was renovated, and additional entrance built.

2. Living space

35. In order to assess whether the living space provided for the detained persons is adequate, on 11 September 2013 the Prisons Administration established a commission tasked with auditing the living space in the places of deprivation of liberty. As a result, the Ministry of Justice made the decision that the minimum living space per one inmate may not be less than 4 m^2, and the Prisons Administration is responsible to ensure the minimum living space by 31 January 2015. On 13 January 2015, the Cabinet of Ministers approved the draft amendments to the *Sentence Execution Code*, which would establish 4m^2 in multi occupancy cells as a minimum living space per one inmate, and 9 m^2 – in single occupancy cell.

36. It should be reiterated that even if the legal framework as currently in force does not explicitly contain reference to 4m^2 per inmate as the minimum living space per one inmate, the actual total number of detained persons allows observing this requirement in practice.

3. Conditions in short-term detention facilities

37. With respect to the renovation and restoration works in the police detention centres, it should be noted that already in January 2013 Daugavpils Police Detention Facility was opened, which provides material conditions of a high standard and can serve as a model for double occupancy cells, each measuring some 17 m^2. The cells are well lit (with good access to natural light) and ventilated, and adequately equipped (including with a fully-partitioned in-cell toilet).[11] New short-term detention facilities have been established in Liepāja, Rīga and Ventspils. The State Police has taken necessary measures to improve the material conditions in other short-term detention facilities; in particular, replaced the existing window blocks (without the possibility to be opened) with the window frames (in Jelgava short-term detention facility).

38. In 2013 the CPT visited the police detention facilities in Dobele, Jēkabpils, Jelgava, Saldus and Daugavpils, and established that in all detention facilities visited, detained persons were generally provided with basic personal hygiene items and adequate food; and each of the detention facilities possessed a small library and detainees were provided with reading material.[12] All police detention facilities were equipped with the outdoor exercise yard. According to CPT, the situation at Jēkabpils Police Detention Facility has improved and offered satisfactory conditions of detention for short stays, cells had sufficient access to natural lights and good artificial lighting, were in acceptable state of repair, clean and well ventilated.[13]

39. In addition, in order to eliminate the possible violations of the human rights of the persons placed in the short-terms detention centres, various amendments to the existing legislation have been prepared, in particular:

- Amendments to the *Law On the Procedures for Holding under Arrest* provide that the minimum space of the walking area in the open yard is not less than 15 m^2, as well the minimum walking time is 1 hour, when the person is detained in the short-term detention centre for more than 24 hours;
- Amendments to the *Regulation regarding the List of Personal Belongings Permitted for the Storage in the Short-term Detention Centre* envisage deleting from the list of the permissible belongings tobacco, matches and lighters. The detained persons will be able to smoke during the walking time, in specially designates places;

[11] CPT Report Latvia Visit 12-09-2013-17-09-2013, [14].
[12] http://www.cpt.coe.int/documents/lva/2014-05-inf-eng.pdf.
[13] CPT Report Latvia Visit 12-09-2013-17-09-2013, [19].

- Amendments to the *Regulation on Procedures for the Placing and Holding of Persons at the Places of Temporary Keeping and the Requirements for Equipment of such Places* stipulate that the short-term detention place in the police premises are to be equipped with lockable barred metallic doors, artificial lighting, the desk fixed to the floor, and should be permanently videotaped.

40. In 2013 the Ombudsman received 15 applications concerning improper conditions in the short-term detention facilities, and until 20 November 2014 – 9 applications. The Ombudsmen has established that several short-term detention facilities, where the conditions did not meet the requirements, have already been closed (Kuldīgas and Ventspils short-term detention facilities), and new short-term detention facilities have been established (in Liepāja, Rīga, Ventspils, Daugavpils). In a number of the short-terms detention facilities, the reconstruction have been carried out to separate the toilets to ensure the respect for the privacy. During the visits the Ombudsman established that the short-term detention facilities are not overcrowded. Even though the number of beds in the cells could be regarded as excessive, not all of them are occupied, that is to say, the number of the prisoners in a cell is less than the number of the beds in that cell. According to the personnel of the short-term detention facilities, there never were more than two persons in a cell.

41. In addition, in the framework of a Norwegian grant programme "Reform of the Latvian Correctional Services and Police Detention Centres" in the nearest future the renovation work will be carried out in about a dozen police detention facilities. The procurement for the construction works will commence on January 2015.

42. During a monitoring visit to Daugavgrīva prison on 27 August 2013, the Ombudsman established that following repairs the living cells on the second floor are well equipped, and toilet facilities have been properly separated. During the monitoring visit to Iļģuciema prison (report of 27 June 2014), the Ombudsman concluded that the overall conditions in the prison are adequate.

43. The steps already scheduled to improve the living conditions and technical inventory in the places of deprivation of liberty for juveniles have been taken in accordance with a time-table established by the policy planning document. The following further measures are envisaged:

- Providing motivational and rehabilitation courses for juveniles who have used alcohol, narcotic or other intoxicating substances;
- Amending the existing legal framework to strengthen the possibility for the juvenile to maintain contacts with his or her parents or adult guardians.

44. With regard to the improvement of the possibilities of out-of-cell activities, the conditions in the facilities designed for the professional education of juveniles in the Cēsis Correctional Facility for Juveniles, have been improved, in accordance to the European Development Fund project "Improvement of Vocational Education Infrastructure and Modernization of Equipment in Places of Imprisonment". The free time activities for juveniles also include interest-education, as well as participation in cultural, informative and sport events in the place of detention. Since 2010, the number of cultural, informative and sport activities for the juvenile detainees has increased.

4. Voluntary activities

45. The prisoner can be employed for remuneration in the place of detention, or outside it. On 30 June 2014, 1194 detained persons were employed, 538 of whom – in the daily works of the place of detention, and 656 – outside the respective place of detention. The employment level of the detained persons amounted to 24 percent of all prisoners, and

33 percent – of convicted persons. The convicted persons may be employed without remuneration only for the maintenance works of the place of detention, not longer than 2 hours per day.

46. With respect to the prisoners serving life sentence, it should be noted that these prisoners, as well as those for whom life-sentence has been replaced with the deprivation of liberty, are placed in the separate building of the place of detention. The employment possibilities of those prisoners are limited, and at the moment no business entity has offered employment opportunities for the prisoners serving life sentence.

47. The prisoners serving life sentence on the lowest regime level had the possibility to watch TV, to play the board games, to read books or to attend the sport unit. The prisoners serving life sentence on the medium regime level continued to benefit from an open-door policy, having unrestricted access throughout the day to an outdoor yard, as well as to a common room, where they could eat, associate and watch television. The sport activities available to the prisoners serving life sentence included a stationary bicycle placed in the outdoor exercise yard for prisoners on the low regime level, and an opportunity to play basketball in the outdoor yard for those on the medium regime level.

48. Between November 2013 and December 2014 resocialization activities for the prisoners serving life sentence in Jelgava and Daugavgrīva prisons, included, for example, participation in several religious events and creative workshop, watching educational movies and movies with therapy elements, followed by discussion, participation in the training course "Breaking the waves", in the project "Mediation impossible/possible mission", in the "Stress reduction programme" and in the state language course "Latvian language Learning". For the prisoners serving life sentence on the low regime level at Daugavgrīva Prison, the possibilities for out-of-cell activities remained limited: only seven of them attended a workshop for 2 ½ hours four times a week, and for the majority out-of-cell time was limited to a maximum of two hours per day, in an outdoor exercise yard and association room equipped with a television set and reading material, accessible each for one hour per day. In Daugavgrīva prison, the prisoners serving life sentence could obtain general education and professional training. Since 1 June 2014, the pilot project has been implemented to provide an opportunity for the prisoners serving life sentence to communicate with relatives using "Skype" software. In academic year 2014/2015 22 prisoners serving life sentence (18 – from the medium grade and 4 – from the lowest grade) acquire the profession of a tailor in Daugavpils Professional Secondary School, and 7 prisoners acquire the secondary education, including 2 prisoners serving life sentence (1 – from the medium grade and 1 – from the lowest grade) – primary education in Daugavpils Secondary School No. 17.

49. In Jelgava prison the out-of-cell activities for the prisoners serving life sentence consisted of one hour of outdoor exercise on a cell-by-cell basis, and a room with a television set and a billiard table, which prisoners could visit in groups of two or three persons once a week for two hours. The available sport activities at Jelgava prison include the horizontal bars in the outdoor exercise areas. In addition, a small room with a television set and a billiard table has recently been set up, which could be visited in groups of two or three prisoners once a week for two hours.[14] Between November 2013 and 22 December 2014 the detainees of the Jelgava prison have participated in several religious events (concerts and church services), organised by different Christian churches, in Christmas and New Year events organised by the prison administration (demonstration of educational movies, creative workshop), demonstration of the movie with therapy elements, followed by discussion, as well as the possibility to participate in various board games. Since

[14] CPT Report Latvia Visit 12-09-2013-17-09-2013, [27.-29].

September 2013, the prisoners serving life sentence have the opportunity to visit a lounge, in order to play board games, to exchange books, to watch TV and to communicate with each other. Since October 2014, the prisoners serving life sentence have possibility to attend the gym, the time of attendance of which is listed outside the time allowed for the daily walk outside the cell. Jelgava prison has started negotiations with commercial entity about the possibility of the employment of the prisoners serving life-sentence. The working equipment is planned to be arranged at the first half of the year 2015.

5. Complaints

50. If the prisoners has an arguable claim about improper conditions in the cells (sanitary/hygienic conditions, improper equipment, etc.), the prisoner is entitled to initiate administrative proceeding, by submitting the application for the bad conditions in the place of deprivation of liberty together with the claim for reimbursement of damages (material, personal or moral) incurred, firstly, to the Prisons Administration. The decision of the Prisons Administration can in turn be appealed before administrative courts. The European Court of Human Rights has on number of occasions recognised that the administrative courts in Latvia offer effective domestic remedies with respect to complaints about conditions in the places of deprivation of liberty,[15] particularly taking into account the fact that administrative courts are competent to award financial compensations for the violations found (see paragraph below). The European Court of Human Rights has further observed that two types of relief are possible: an improvement in the material conditions of detention; and compensation for the damage or loss sustained on account of such conditions. It should be noted that according to the well-established case-law of administrative courts of Latvia the conditions of the place of detention should be evaluated in the light of overall effect of the conditions (the space of the cell, equipment of the cell, availability of the hygienic devices, dresses and bedclothes), with respect to the prisoner concerned.[16]

51. Administrative courts, in accordance with the principle of objective investigation, examine the complaints and, in case of finding the violation, take the decision imposing a duty to the respective institution to carry out specific actions in specific time period, or to prohibit the institution from carrying out specific action. The court may award compensation to the person with respect to the pecuniary and non-pecuniary damage, and costs of the proceeding. For example, in administrative case No. A420586811, the Administrative Regional court, when deciding the complaint of the prisoner about improper conditions in the cell (inadequate lightning and overcrowding) for the time period of half a month, recognised the action of the prison administration to be unlawful and awarded the compensation to the person in the amount of EUR 450.00 for moral damage and EUR 42.69 for costs and expenses.[17] In administrative case No. A420771210, the Administrative Regional court, when deciding the complaint of the prisoner about inadequate separation of the toilet, for the time period of approximately 20 days, recognised the action of the prison administration unlawful and awarded the compensation to the person in the amount of EUR 220.00 for moral damage and EUR 0.71 for costs and expenses, plus EUR 41.97 for reimbursement of the fee for the appellate complaint.[18] In administrative case where the

[15] Decision of the European Court of Human Rights of 9 December 2014, case *Raitis Āboliņš against Latvia*.

[16] Decision of the Higher Court of Latvia of 9 July 2010, case No. SKA-126/2010 17.p.

[17] Decision of the Administrative Regional court of 07 February 2014 in case No. A420586811 (AA43-0093-14).

[18] Decision of the Administrative Regional court of 7 February 2014 in case No. A420771210 (AA43-0139-14).

prisoner complained about locked window, which resulted in the lack of fresh air and light, about disabled ventilation, as well as about toilet facilities that were not partitioned and about humidity in the cell, the administrative court awarded compensation in the amount of EUR 853.72, taking into account the duration of the violation of about 2 years.[19]

52. Additionally, the Ombudsman is monitoring the conditions in the places of detention as a part of his mandate, and, in particular, has considered applications and has visited the places of detention, as well as participated in the legislation proceedings.

6. The provision of dental care in places of detention

53. Information about the prompt dental care to all detainees is included in the replies about the implementation of the recommendations contained in paragraph 9 of the Concluding Observations.

C. Implementation on the recommendations contained in paragraph 21 of the concluding observations

1. Use of restraints

54. Special means — handcuffs — may in certain cases be used to restrain a prisoner inside the territory of the place of deprivation of liberty, in particular, if the person concerned could endanger the staff, or if there are reasons to suspect the prisoner might attempt to escape.[20] The handcuffing may be used only after the necessity of such special means is individually assessed. Even before the entry into force of the above amendments to *Sentence Execution Code* on 1 April 2013, already in February 2013, the Prisons Administration instructed the administrations of the Daugavgrīva and Jelgava Prisons (the places of detention for prisoners serving life sentence) to discontinue the routine use of handcuffing, and to commence individual risk assessments.

55. The Individual risk assessment commissions, established by the head of the place of deprivation of liberty, started functioning in August 2013. The commission evaluates each prisoner serving life sentence at least once in every six months. The commission comprises the heads of the departments responsible for social rehabilitation, supervision, safety and medical care of convicted persons and the prison's psychologist who works with prisoners serving life sentence. The level of danger posed by the respective prisoner and the need for application of special means – handcuffs – is examined referring to the individual risk assessment (disposition to self- injury or suicide, potential aggression towards other inmates or the prison staff, as well as the probable escape). The opinion of the prisoner concerned is also heard.

56. In accordance to internal regulations of the Prisons Administration, each place of detention has its own instructor who provides training for the prison officials regarding the use of the special restraints and special fighting techniques. Since 2013, the Educational Centre of the Prisons Administration has prepared a 40-hour course for the use of the special restraints and special fighting techniques, and 17 officers of the Prisons Administration have received the instructor certificate. Accordingly, each place of detention has at least one instructor, whose duties include the provision of regular training for the prison officers. In 2014, 20 prison officers have received the training.

[19] Decision of the Administrative Regional court of 28 February 2013 in case No. AA43-0143-13).

[20] Article 50^8 of the *Sentence Execution Code*, amendments of 20 December 2012.

57. Between December 2009 and December 2014, the Prisons Administration Educational Centre has provided the professional continuing education for the officials and employees of the places of detention, including on the issues of the right to legal assistance and health care services. The education programme "Prison guard", which corresponds to the third level of the professional continuing education programme, addresses the issues of the national and international law and regulations, including the basic knowledge of the system of the provision of legal aid, which must be acquired by the prison staff. The training for the use of special means for 22 hours was included in the course "Regulation of the use of Special Means within the Places of Detention". The professional training, provided by the Educational centre during the time period of 2009–2014, was completed by 483 officials and instructors.

2. Complaints

58. The prisoner who has been hand-cuffed, has effective means to challenge the use of the restraints, namely, the prisoner may contest the decision of the above-described commission to the head of the Prisons Administration. 13 such applications have been received in 2013, and 9 applications in 2014.

59. In 2014 the Ombudsman received 3 complaints about the use of handcuffing. In order to evaluate the existing practices of the Prisons Administration regarding the handcuffing of prisoners serving life sentence, the Ombudsman receives the copies of the decisions concerning the use of handcuffing. In case the Ombudsman initiates verification procedure and finds a violation, the Ombudsman may submit the application to the administrative courts.